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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/720,608

11/24/2003

Joseph J. Massad

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24118 7590 12/10/2007
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EXAMINER

WILSON, JOHN J

ART UNIT

PAPER NUMBER

3732

MAIL DATE

DELIVERY MODE

12/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/720,608

Applicant(s)

MASSAD, JOSEPH J.

Examiner

John J. Wilson

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3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-5, 7 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6 and 9-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

This application contains claims 1-5, 7 and 8 drawn to an invention nonelected with traverse in the reply filed on June 20, 2006. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6, 10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Laszlo (6608020). Laszlo teaches a tooth 4 provided with sides at 31 and bottom as shown at the bottom of hollowed out portion 30, Figs. 2 and 3, and a resin filling, column 2, lines 39-42, which forms an occlusal surface. Laszlo shows in the figures that side walls the 31 that have an inverse hour glass shape, the expanded bottom the shown walls inherently provides an undercut. This shown undercut inherently provides a notch.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laszlo (6608020). Laszlo teaches a tooth 4 provided with sides at 31 and bottom as shown at the bottom of hollowed out portion 30, Figs. 2 and 3, and a resin filling, column 2, lines 39-42, which forms an occlusal surface. Laszlo shows in the figures that the side walls 31 that have an inverse hour glass shape, the expanded bottom the shown walls inherently provides an undercut. In view of the new terminology, "notch", the specific shape of the undercut is an obvious matter of choice in the shape of a known structure to one of ordinary skill in the art.

Claims 9, 11, 13, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Opotow (2309270) in view of Laszlo (6608020). Opotow shows a dental prosthesis 10 having teeth as shown, central bearing 12, removable attaching material 13. The shown central bearing is capable of being received in the mouth, page 2, column 1, lines 14-45, and is inherently capable of maintaining a spaced relationship. Opotow teaches the occlusion is adjusted, page 2, column 2, lines 7-25. The material 13 functions as an adhesive. Opotow does not show a tooth housing with a receptacle. Laszlo teaches a housing provided with sides at 31 and bottom as shown at the bottom of hollowed out portion 30, Figs. 2 and 3. It would be obvious to one of ordinary skill in the art to modify Opotow to include a tooth housing as shown by Laszlo in order to better obtain the desired occlusion by an art known alternative method. As to claims 11

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and 13, Laszlo teaches using resin for filling. To use resin for the tooth housing also would be an obvious matter of choice in the use of well known materials for teeth to one of ordinary skill in the art. The specific adhesive used is an obvious matter of choice in known materials for attaching devices to the skilled artisan.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laszlo (6608020) in view of Faust et al (3826002). Laszlo shows the structure described above, however, does not show a removable insert. Faust shows a removable insert, Figs. 11-13. It would be obvious to one of ordinary skill in the art to modify Laszlo to include an insert as shown by Faust as the claim language is a list of elements properly met by a list of elements in the prior art.

Claim 15 is are rejected under 35 U.S.C. 103(a) as being unpatentable over Opotow (2309270) in view of Laszlo (6608020) as applied to claim 9 above, and further in view of Faust et al (3826002). The above combination does not show a removable insert. Faust shows a removable insert, Figs. 11-13. It would be obvious to one of ordinary skill in the art to modify the above combination to include an insert as shown by Faust as the claim language is a list of elements properly met by a list of elements in the prior art.

Claim 17 is are rejected under 35 U.S.C. 103(a) as being unpatentable over Opotow (2309270) in view of Laszlo (6608020) as applied to claim 9 above, and further

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in view of Luth (5188529). Opatow further shows a bearing plate 31 and bearing pin 22, however, the above combination does not show a lock nut. Luth teaches using a lock nut 11B. It would be obvious to one of ordinary skill in the art to modify the above combination to include a lock nut as shown by Luth in order to lock the elements in position.

Response to Arguments

Applicant's arguments filed October 16, 2007 have been fully considered but they are not persuasive. Applicant argues that Laszlo does not show a notch, however, this argument is disagreed with. The disclosure does not specifically define the term notch, and further, applicant's remarks states that a notch does not have to be V-shaped and can have curved surfaces. It is held that the curved shaped surfaces of Laszlo comprise a notch that inherently function to hold the filling material. It is also held that the method of forming the shaped surface is merely a process step in an article claim, the actual claimed structure being shown, the process of forming is not given any patentable weight. In view of this, any meaning given to the terms undercut and notch as to there being cut into or out of the surface is properly not given any patentable weight. With respect to Opatow, the combination shows the claimed structure that is capable of holding the tooth housing. The effectiveness of the shown structures use in an intended method is intended use, and as such, is properly not given patentable weight.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Wilson whose telephone number is 571-272-4722). The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez, can be reached at 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

***/John J Wilson/
Primary Examiner
Art Unit 3732***

jw
December 5, 2007